IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

Crl.MC.No. 2633 of 2004

ST.170/2004 of ADDL.CHIEF JUDICIAL MAGISTRATE (E & O),ERNAKULAM

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PETITIONER/2ND ACCUSED:

SHRI. ABRAHAM J. THARAKAN, SHIBUMI,
814, BEACH ROAD, FORT COCHIN, COCHIN-1.

BY ADV. SRI.C.K.KARUNAKARAN
SRI.C.E.UNNIKRISHNAN

RESPONDENTS:

1. THE ASSISTANT REGISTRAR OF COMPANIES
KERALA, M.G. ROAD, ERNAKULAM,
COCHIN-682 011.

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT
OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.RAVINDRA BABU

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 10/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P. Balachandran, J.

Crl.M.C.No. 2633 of 2004

ORDER

Petitioner is the second accused in S.T.No.170/04 on the file of the Additional Chief Judicial Magistrate's (Economic Offences) Court, Ernakulam. The complainant in the case is the first respondent and the second respondent is the State.

2. In this Crl.M.C., filed on 5.10.2004, an interim stay was obtained on 15.10.2004, but notice ordered is not yet served and no effective attempt is seen to have been taken by the petitioner to cause service being effected on the first respondent, who is none other than the Assistant Registrar of Companies at M.G. Road, Ernakulam.

3. The prayer in this Crl.M.C. is to quash Annexure A1 complaint filed by the first respondent for offence punishable under Section 162 of the Companies Act read with Section 159 thereof. The contention is that, vide Annexure A2, the first accused Company is amalgamated with M/s.International Creative Foods Limited and consequently, no offence under Section 162

of the Companies Act read with Section 159 thereof is committed by the petitioner. The defence, on the basis of Annexure A2 order, if any available, can be urged by the petitioner before the Chief Judicial Magistrate, before whom, S.T.No.170/04 is pending. Almost three years have elapsed after filing of this Crl.M.C. and the petitioner is not anxious to have service effected and consequently, trial of S.T.No.170/04 is held up on that count,

In the circumstances, without prejudice to the rights of the petitioner to advance all the contentions on the basis of Annexure A2 order before the Chief Judicial Magistrate, before whom, S.T.No.170/04 is pending, I dismiss this Crl.M.C.

10th August, 2007 (K.P.Balachandran, Judge)

tkv